

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

1.	TAMMY MESSINA, on behalf of J.D.T., a minor,)	
)	
	Plaintiff,)	
)	
v.)	Case No. CIV-15-00440-SPS
)	
1.	THE NEWTON GROUP d/b/a SONIC DRIVE-IN OF BROKEN BOW #1643)	
)	
	Defendant.)	

COMPLAINT

COMES NOW THE PLAINTIFF and hereby plead his claims as follows:

PARTIES

1. The Plaintiff is Tammy Messina, on behalf of J.D.T., a minor, both residents of Stone County, Missouri.
2. The Defendant is The Newton Group d/b/a Sonic Drive-In of Broken Bow #1643, a business entity operating in McCurtain County, Oklahoma.

JURISDICTION AND VENUE

3. Plaintiffs' claims are for discrimination on the basis of sex and retaliation for reporting complaints of sexual harassment culminating in Plaintiff's termination in violation of Title VII of the Civil Rights Act of 1964 and Oklahoma's Anti-Discrimination Act. Jurisdiction over the federal claims is vested in this Court under 42 U.S.C. § 2000e-5(f)(3) and 28 U.S.C. § 1331. The state law claims arise out of the same core of facts and jurisdiction over them is vested under 28 U.S.C. § 1367(c).
4. Venue is provided by 42 U.S.C. § 2000e-5(f)(3) under which jurisdiction is CIV appropriate in any district in the State. All acts giving rise to this litigation occurred in McCurtain County, Plaintiff worked in McCurtain County and the Defendant may be served in that County. McCurtain County is located in the Eastern District of the

United States District Court of Oklahoma wherefore, venue is proper in this court.

STATEMENT OF FACTS

5. Defendant employed fifteen (15) or more employees during each of at least twenty (20) weeks of the current or preceding calendar year, and is a covered employer under Title VII. There is no minimum number of employees required to be covered by the OADA.
6. Plaintiff J.D.T. is a male who was employed by the Defendant from August, 2014, to January 6, 2015.
7. In January, Plaintiff J.D.T. was sexually harassed by a male co-worker who spread rumors that J.D.T. was a homosexual who was trying to sleep with the co-worker.
8. J.D.T. reported this harassment to Defendant's assistant manager and then to the manager.
9. No corrective action was taken.
10. Within a day or two after the complaint, the manager terminated J.D.T.'s employment due to an alleged customer complaint.
11. Such alleged reason was a mere pretext for discrimination in that there was no complaint and, even had a complaint been lodged, the Defendant's policy would not result in a termination for a first offense complaint.
12. As the direct result of such termination, J.D.T. has suffered lost wages (including back, present and front pay along with the value of benefits associated with such wages), and dignitary harm/emotional distress type damages including stress, worry, and sadness.
13. Because the actions of the Defendant were willful, malicious or, at the least, in reckless disregard for J.D.T.'s federally protected rights, Plaintiff is entitled to an award of punitive damages under federal law, and an award of liquidated damages under Oklahoma law.

14. J.D.T. exhausted his administrative remedies by timely filing a charge of discrimination on or about February 2, 2015. The EEOC issued Plaintiff's right to sue letter for his charge on or about September 9, 2015, which the Plaintiff received thereafter. This complaint is timely filed within ninety days of Plaintiff's receipt of his right to sue letter.

PRAYER

Plaintiff respectfully requests this Court enter judgment in their favor and against the Defendant and grant them all compensatory damages suffered together with punitive damages, liquidated damages, attorneys' fees, costs and interest and such other legal and equitable relief as this Court deems just and proper.

RESPECTFULLY SUBMITTED THIS 16th DAY OF NOVEMBER, 2015.

HAMMONS, GOWENS, HURST
& ASSOCIATES

s/ Leah M. Roper

Mark E. Hammons, OBA #3784

Amber L. Hurst, OBA # 21231

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JURY TRIAL DEMANDED

ATTORNEY'S LIEN CLAIMED